

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2829

(Reference to House engrossed bill)

- 1 Page 1, line 10, after “disability” strike remainder of line
- 2 Strike line 11
- 3 Line 12, strike “of temporary partial disability”
- 4 Strike lines 13, 14 and 15, insert “UPON APPROPRIATE APPLICATION AND HEARING,
5 WAGES THAT COULD HAVE BEEN EARNED BUT FOR THE MISCONDUCT OF THE EMPLOYEE, MAY
6 BE CONSIDERED AS WAGES EARNED BY THE EMPLOYEE IF THE EMPLOYMENT IS SUITABLE
7 AND IS AVAILABLE IN THE COMPETITIVE LABOR MARKET AND MAY BE USED AS A CREDIT
8 AGAINST TEMPORARY PARTIAL COMPENSATION BENEFITS. THE CREDIT SHALL NOT BE
9 TAKEN UNTIL THE CARRIER, SELF-INSURED EMPLOYER OR SPECIAL FUND HAS PRESENTED
10 EVIDENCE TO THE INDUSTRIAL COMMISSION AND RECEIVED AN AWARD FROM AN
11 ADMINISTRATIVE LAW JUDGE ALLOWING THEM TO TAKE THE CREDIT.”
- 12 Page 3, strike lines 1 through 4, insert:
13 “D. FOR THE PURPOSES OF DETERMINING AN EMPLOYEE’S EARNING CAPACITY
14 UNDER SUBSECTION C OF THIS SECTION, THE COMMISSION MAY CONSIDER WAGES THE
15 EMPLOYEE COULD HAVE EARNED FROM EMPLOYMENT THAT WAS TERMINATED DUE TO THE
16 EMPLOYEE’S MISCONDUCT ON OR AFTER THE DATE THE EMPLOYEE’S DISABILITY WAS
17 DEEMED PERMANENT AS REPRESENTATIVE OF THE EMPLOYEE’S EARNING CAPACITY IF THE
18 EMPLOYMENT IS SUITABLE AND AVAILABLE IN THE COMPETITIVE LABOR MARKET. ANY
19 SUCH PRESUMED EARNING CAPACITY SHALL CONTINUE FOR A PERIOD OF ONE YEAR FROM
20 THE DATE THE EMPLOYMENT WAS TERMINATED. ONCE THIS PERIOD HAS ENDED, THE
21 EMPLOYEE MAY ESTABLISH A LOSS OF EARNING CAPACITY BY SHOWING THAT THE
22 EMPLOYEE’S INABILITY TO OBTAIN OTHER SUITABLE AND AVAILABLE EMPLOYMENT IS
23 DUE, AT LEAST IN PART, TO THE EMPLOYEE’S INDUSTRIAL INJURY. UPON REOPENING
24 OF THE CLAIM FOR ACTIVE MEDICAL TREATMENT AND SUBSEQUENT CLOSURE, THE
25 EMPLOYMENT FROM WHICH THE EMPLOYEE WAS TERMINATED SHALL NOT BE CONSIDERED IN
26 DETERMINING THE EMPLOYEE’S EARNING CAPACITY.”
- 27 Page 4, line 18, after “MEANS” strike remainder of line
- 28 Strike lines 19 through 27
- 29 Line 28, strike “2.”

Senate Amendments to H.B. 2829

1 Page 4, line 29, after the period insert “ANY SUCH IMPAIRMENT MUST BE SUPPORTED BY
2 A VALID DRUG TEST OR ALCOHOL IMPAIRMENT TEST TAKEN AT THE TIME OF THE ALLEGED
3 IMPAIRMENT, UNLESS THE EMPLOYEE REFUSES TO TAKE A TEST WHEN GIVEN THE
4 OPPORTUNITY.”

5 Strike lines 30 through 44

6 Page 5, strike lines 1 through 4

7 Amend title to conform

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4/8/08
4:14 PM
S: LB/ac